**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3542 OF 2006

Jatinderpal Singh Hundal, .. Petitioner
Vs
1. Jaspal Singh Partap Singh Kohli,
and ors. .. Respondents

Mr H.T.Pawar, for the petitioner.
Mr Peter Lobo, for the respondents.

**CORAM : D.B.BHOSALE,J.**
**DATE : 12.09.2006**
**PC:**

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr.Lobo, learned counsel, waives service for the respondents. By consent, rule is heard forthwith.

3. The petitioner has impugned the order dated 23.3.2006 by which the trial Court has closed the evidence of the plaintiff keeping in view his conduct and delaying tactics adopted by him. The operative part of the order reads thus:

> "The application for issuance of witness summons filed today i.e. 23,3.2006 is rejected. Plaintiff's chance to examine other witness is also closed as he has not produced any other witness in the court. Now adjourned to 10.4.2006 for R/E on behalf of the defendants. Deft.

> to serve the evidence affidavit and the copy of the compilation of the document to the advocate for the plaintiff on or before 3.4.2006. Defts. to file evidence affidavit and compilation of the documents on the adjourned date in the Court @ copy of the evidence affidavit deft. shall communicate name and the address of the witness whom they propose to examine and file list of witness on their behalf in the court on the next date."

The learned counsel appearing for the parties have fairly stated that for allowing this writ petition I need not record reasons and they have agreed for the following order.

(i) On the petitioner paying cost of Rs.5000/- to the respondents within one week from today, the order impugned shall stand quashed and set aside. The trial Court shall allow the petitioner to examine the witnesses within three months from the date of receipt of this order. If the petitioner fails to examine the witnesses within the aforestated time, his evidence may be treated as closed and in that case the trial court may proceed with hearing of the suit without granting any further time to the petitioner and decide it on merits.

(ii) The trial Court shall endeavour to dispose of the suit as expeditiously as possible and preferably within a period of six months from the date of

receipt of this order. Parties are directed to co-operate disposal of the suit within the timeframe.

(iii) It is needless to state that it would be the responsibility of the petitioner-plaintiff to take steps for issuance of witness summons to the witnesses whom he desires to examine in the case and see that their evidence is recorded within three months time as aforestated.

(iv) If the petitioner fails to pay the cost to the respondents as aforestated, this order shall not operate and the order impugned shall stand.

(iv) Certified copy expedited.

(D.B.BHOSALE,J.)